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ABSTRACT

Information on annuity, charitable remainder trust, and bequest programs is presented. Attention is directed to the growth and basic premises of annuity and life income plans and the question of why an institution should include annuities and charitable trusts in a development program. The various types of plans and gifts and the tax advantages of each are explained in lay language. Practical guidelines are presented on how to start, market, and evaluate annuity and life income plans, and how to work with the business office. The gift annuity is a contract between the institution and the donor. The institution pays a guaranteed lifetime annuity in return for the gift of cash, securities, or real property. The deferred gift annuity is tailored to meet the needs of the donor who wants to claim a substantial charitable contribution now but is willing to defer income payment to a later date. Higher rates of return and larger charitable contributions are available under deferred annuity plans because the gift is invested by the college and the return on the investment accrues to the donor's benefit during the period before the first payment is made. The unitrust is established as a separate trust with no commingling with other funds. As a result, a flexible management policy can be followed to meet changing conditions and the investment objectives of the donor can be considered. Other types of charitable remainder trusts are the net income unitrust, the annuity trust, the term certain annuity trust, and the charitable lead trust. Types of gifts are cash, stocks or bonds, tax-exempt bonds, tangible personal property, and real estate. (SW)

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# An Introduction to Annuity, Charitable Remainder Trust, and Bequest Programs Second Edition

by William B. Dunseth

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## PREFACE

When William Dunseth prepared a paper on this subject for the 1977 CASE Summer Institute in Educational Fund Raising at Dartmouth College, it was so well received CASE asked Bill to expand his manuscript into a handbook. The handbook became a sell-out, and so we asked Bill to update his material for a 1982 version.

We feel this updated monograph fills an important gap in the existing literature on annuity, life income, and bequest programs. Much of what has been published recently is either too sketchy to be helpful, or deals with the complex tax and legal aspects of these programs. What Bill Dunseth does here is discuss the types of gifts and the concurrent tax advantages with which every development officer ought to be familiar. This handbook is an excellent starting point for individuals who desire to learn more about this subject, and is especially valuable to presidents and board members who may be considering an annuity, life income, or bequest program.

Bill Dunseth is well qualified to write this handbook. With more than 30 years of experience in higher education and development, he is regarded as one of the most knowledgeable individuals in the field. He holds a master's degree in business and has served as Dean of Men and Vice President of Park College, Director of Development at Hampden-Sydney College, General Secretary for the California State Colleges, and Director of the University of Oregon Development Fund. For 14 years he served as Director of the Annuity and Trust Program and later as Vice President for Development at Pomona College, which has been a leader in the annuity, life income, and bequest field for nearly 35 years. Now retired as Vice President Emeritus, he serves as Executive Consultant for American City Bureau in Chicago and consults privately with a number of charitable organizations across the country.

Richard A. Edwards
Vice President, CASE

June 1982

# INTRODUCTION

John Harvard started it all -- at least as far as education is concerned. And the American tradition now includes the concept of individuals assuming responsibility for helping assure the welfare of others, providing education for the common good, and maintaining religion apart from the state. In short, Americans believe in individual responsibility first and government provision of services second.

One of the world's finest institutions of higher learning, Harvard University, began as the result of a bequest from John Harvard. Since then, the support of philanthropy by the private citizen has made America unique in the eyes of the world. No other nation provides the variety of services for its citizens through private initiative and contributions that this country does.

In the fields of religion, medicine, and social services, the results of the charitable contributions of millions of Americans are evident everywhere. The same is true in education. The first colleges for black students, the first colleges for women, many of the major universities of this country, and most of the smaller independent institutions were created and have been sustained by private philanthropy.

The income tax that came into being early in the 20th century doomed the kind of philanthropy that had been possible before, but national policies continued to encourage, chiefly through tax incentives, the charitable instincts of the private citizen.

It may or may not be coincidence that the first signs of formalized educational fund raising coincided with the advent of the federal income tax. It was then that some eastern institutions began organized efforts to solicit money through alumni funds. Following World War II, the federal tax came to have a much greater impact on the life and economic well-being of all American citizens. Dartmouth created its bequest program, which has pointed the way for all of us in the development of gifts by will. It was at this time, as college development was emerging as a respectable profession, that another significant trend in the financing of higher education developed: "Deferred gifts" were being recognized as an important element of financial support. Now the charitable gift annuity and the charitable remainder trust have been accepted, at least in theory, as equal partners with the outright gift and the bequest. However, they are being fully utilized by too few institutions.

We must at the outset acknowledge that governing boards and presidents find it difficult to allocate hard-to-come-by resources to attract gifts that may not be available to the institution for some years. But we cannot overstate the importance of considering this option. The question may well be: Can an institution afford to be without a program that offers the potential of materially increased endowment support and the assurance in planning the future that comes with it? If the answer to that question is yes, it certainly must result from careful consideration -- not default.

There is evidence that "deferred giving" is not only here to stay but is increasing in importance. Long before such programs became as formalized as they are today, institutions had been issuing gift annuities. Churches had taken the lead in encouraging this form of giving, but individual colleges had also offered such contracts across the country from time to time. It is probably fair to say, however, that each contract stemmed more from donor initiative than aggressiveness on the part of the college.

In 1946, Pomona College offered through the public press the opportunity for individuals to make gifts that were commingled with pooled funds of the college endowment. In return, the donor each year received a prorated share of the income of that pooled fund. With the increasing significance of the income tax, the financial benefits to the donors of such gifts became an effective tool for marketing such a plan. In 1958, the gift of appreciated property to be sold and turned into tax-exempt income was approved by the Internal Revenue Service. That plan was so successful that the IRS revoked the ruling in 1960. This action brought "deferred giving" programs to national prominence. The New York Times referred to the several forms of gifts offered by Pomona College as "The Pomona Plan," and it became a hallmark for success in attracting gifts from individuals who could not afford to give up income during their lifetimes.

Nine years later, the Tax Reform Act of 1969 added the unitrust and the annuity trusts to the arsenal of plans whereby individuals could make such gifts. In just a little over 20 years, "deferred giving" moved from a somewhat nebulous concept used by a handful of philanthropic institutions to a formalized program now officially recognized and accepted as part of the development organization of many charities.

The evidence that annuity and life income gifts are becoming more widely recognized is encouraging, but philanthropy is still far from taking full advantage of their potential. Reports from the Council for Financial Aid to Education indicate the increasing importance of these agreements over the years. For example, the total of such gifts reported in 1954-55 was $4,668,000. In 1965-66, the total was $38.516,727. In 1979-80, not a good year for the stock market or the nation's economy, the

total reached $99,674,000. And yet only 30 percent of the institutions reporting to CFAE in 1979-80 reported any annuity and life income gifts. However, coupled with bequests, this form of giving now represents a major force in the support of higher education in America.

It is time that we do away with the words "deferred gifts." While a gift in exchange for an annuity or a charitable remainder trust may mean that the availability of the asset for use by the institution is deferred, giving up control of his or her assets is not deferred as far as the donor is concerned. In every instance, the donor makes an irrevocable gift. It cannot be returned. The income starts at the first payment period and continues. The tax benefits are immediate. Nothing is "deferred" for the donor. We have created for ourselves a small problem in communication.

## WHY INCLUDE ANNUITIES AND CHARITABLE TRUSTS IN A DEVELOPMENT PROGRAM?

The traditional form of fund solicitation has been the search for contributions we can use now -- the so-called "outright" gift. It is only natural that development efforts over the years have concentrated on outright giving: these gifts are usable immediately. For independent institutions, which rely on such gifts for their year-to-year existence, the emphasis is crucial.

However, in order to determine whether or not such a gift is feasible, the donors must go through the process of determining which assets, if any, will not be needed for their own health and welfare and that of their families or other persons for whom they wish to provide. In the case of the small, relatively insignificant gift, this process may not be necessary. But in the case of a significant gift, which may be available only once in an individual's lifetime, the process of evaluating future needs is vital. It should culminate in the prospect's decision as to whether or not it is possible to make an outright gift now.

The bequest has been a successful alternative for those who cannot make an outright gift. This at least gives the donor a choice. It is also possible to combine the two methods, making part of the contribution in outright fashion and the balance by bequest.

Adding the gift annuity, the pooled income fund, and the charitable remainder trust to the choices we offer donors fills the gap between the outright gift and the bequest. The essential characteristics of all the plans are: (1) all gifts are irrevocable; (2) the right to income or use of the property is retained for the donors and/or others; (3) there are income, capital gains, and estate and inheritance tax benefits for the donors; and (4) the principal remaining at the death of the last beneficiary is available for use by the college or university.

To the donors these plans offer: (1) the opportunity to make a gift during their lifetimes when income from the asset cannot be lost; (2) the opportunity to make larger gifts during their lifetimes than can possibly be made as outright gifts; (3) the opportunity to make gifts and at the same time assure income for life to a spouse, to children, or to others; (4) the encouragement to begin good estate planning and the preparation of a will, which means that the largest possible portion of the estate will be distributed according to the wishes of the donors; (5) the opportunity to create a memorial in the name of the donors or to honor others, and to do it during lifetime; (6) the opportunity to gratify the human need for recognition while the donors are living and able to accept the expression of appreciation from the institution; and (7) tax benefits that enable donors to allocate their charitable gifts most efficiently.

From the institution's point of view, we can see that the funds we can attract through these plans are irrevocably ours. They are the assured funds of the future. They are in hand. These funds may well be the major source of endowment growth in the future. There is evidence from capital campaigns of the last few years that a most significant proportion -- sometimes as much as 70 to 80 percent -- of new endowment funds has come through annuity and life income programs and bequests. These funds enable the governing board to plan the future with confidence because assets that are in hand will produce income at a somewhat predictable rate in the future.

We now offer donors the methods for underwriting their commitment to our institutions to the fullest extent. By combining the outright contribution with gifts retaining income and a bequest provision, donors can prepare and carry out plans that best suit their own circumstances with the maximum benefit to all concerned. The plan that offers greatest benefits for all parties offers the greatest sense of satisfaction and accomplishment for donors. If we can help donors achieve that result, the benefits for our institutions are apt to be at a maximum. What is best for the donors is best for us.

Because annuities and charitable trusts are more complex forms of giving than outright gifts and many bequest provisions, staff persons with the technical knowledge and skill to make such presentations to donors may find themselves in a unique position on the development staff. Even the chief development officer may inadvertently contribute to a separation of this mysterious function from the other fund-raising efforts. An unfortunate competition for gifts from the same donor may arise, and the result may be a failure to offer the donor the opportunity to make the most effective contribution.

The chief development officer is responsible for preventing such an occurrence. Each member of the development department is a member of a team; each contributes equally to the effort, not according to the number of gifts or the total dollars each reports at the end of the fiscal year. The annuity and charitable trust effort must be kept in balance with other parts of the development program.

How do we solve the problem of achieving a balanced program that offers a total spectrum of opportunities to a potential donor? Put the annuity and life income possibilities in perspective through use of a priority list that reflects institutional policy. This list, which is for internal use only, will remind staff members that all forms of gifts are desirable. Some forms benefit the institution sooner than others, but if donor circumstances dictate using one form of gift rather than another, the gift should be accepted with equal enthusiasm and appreciation.

No one questions the desirability of the outright gift. It is our paramount need. However, if a donor can't make such a gift, we should be delighted to have a pledge that is payable over three to five years and can be spent when received. If those two forms of giving are not achievable in a significant amount, why not suggest a gift annuity or a charitable remainder trust? And if those plans are not appropriate, a living trust may be suitable, even though it may be placed in the hands of an outside trustee with the college as beneficiary if assets still exist at the death of the donor. Finally, there is the bequest. Granted, wills may be changed easily, but most charitable bequests exist intact until probate, despite revisions or even complete rewriting of wills.

The existence of such a list of priorities will enable all development staff members to keep in mind the relative importance of each type of gift offered in the development program. No one form of giving will be urged upon donors when it is clearly not in their best interests or, worse yet, because the college representative has a specialty and can't see beyond it.

## THE PLANS

The Gift Annuity is a contract between the institution and the donor. The institution pays a guaranteed lifetime annuity in return for the gift of cash, securities, or real property. The same income may continue to a spouse, a relative, or a friend for life, but there may not be more than two income beneficiaries on each agreement.

In most states, annuities are written in conformity with the insurance code of the state and under supervision of the state Commissioner of Insurance. The rates of return are determined by the ages of the beneficiaries and are lower than comparable rates offered by commercial insurance companies. This difference in rates of return is accounted for by the fact that most charitable organizations expect to have at least 50 percent of the principal contributed as a remainder at the time the last beneficiary dies. The Committee on Gift Annuities, an organization made up of many of the charitable organizations in the United States that issue gift annuities, publishes recommended rates every three years after a study of mortality tables and an analysis of projected investment earnings. Most charities use the rates proposed by the committee. Some, however, take into account their own investment experience to determine the rate they will offer to a donor on an individual gift basis. In any case, the dollar amount of the annual annuity, fixed at the time the contract is written, does not change throughout the existence of the agreement. Computations are based on a set of assumptions that result in a portion of the gift principal being used to make the annual payments. Inasmuch as return of principal to the donor is not taxed, a portion of the annual payment is tax-free.

It is important to note that in this particular form of giving there is no trustee; all of the assets of the charitable organization, not just the assets contributed by the donor, are pledged against the payment of the annual annuity.

The Deferred Gift Annuity is tailored to meet the needs of the donor who wants to claim a substantial charitable contribution now but is willing to defer income payment to a later date. The deduction is based on the age the beneficiary will have attained when payments are first received, and the annuity rate will be based on that same age. Higher rates of return and larger charitable contributions are available under deferred annuity plans because the gift is invested by the college and the return on the investment accrues to the donor's benefit during the period before the first payment is made. This plan is of particular interest to persons in high income brackets who are looking forward to retirement some time within the next 20 years when income will be lower and a lower tax bracket will apply. The tax-free portion of the annual payment adds to the attractiveness of the plan.

The Pooled Fund Life Income Plan involves commingling gifts of many donors. Such pooling enables the college to take advantage of size and diversity in following an investment policy designed to offer both generous income and relative safety. When a gift is received, it is assigned units or shares in the pool based on the fair market value of the gift. Each year, all of the income received from the pooled fund investments must be distributed, prorated periodically to each donor on the basis of the number of his or her other units. The rate of return, based on the total income of the pool, is the same for each unit in the fund.

While income amounts are not guaranteed and the investments in the pool may be changed to respond to different economic conditions, the variations in payments will be far less than would be true when a relatively small gift is handled as a single investment. Inasmuch as the pooled fund is a form of trust, other assets may not be used to fulfill any of its obligations. Indeed, should the institution cease to exist, the trust would continue under supervision and management appointed by the courts. Obviously this plan appeals to the donor whose gift potential is restricted to sums smaller than an amount that can be prudently and effectively invested separately.

## Charitable Remainder Trusts

The Unitrust is established as a separate trust with no commingling with other funds. As a result, a flexible management policy can be followed to meet changing conditions and the investment objectives of the donor can be taken into account. Donors may not dictate investment decisions, although they are free to make suggestions. The trustee, however, is solely responsible for all investment decisions. Additional gifts may be made to the unitrust from time to time.

Because the value of the assets can be expected to change from time to time, the unitrust payment may vary in amount. The amount to be paid is determined by multiplying a percentage (minimum of 5 percent), mutually agreed upon and stated in the trust agreement, by the value of the assets in the trust, revalued at the beginning of each trust tax year. The amount to be paid each year is known on the first day of that year. Should the annual income exceed the amount to be paid to the beneficiaries, the excess must be added to the trust principal and reinvested for the benefit of the trust.

When payment is made from the basic unitrust, the "three-tier concept" calls for the distribution first of all ordinary income and short-term capital gains (both fully taxed) received by the trust. Next, long-term capital gains are distributed and are taxable to the donor as such. Finally, tax-exempt income, and, if necessary, return of principal (not taxable) are distributed to make up the total annual amount.

It is conceivable that the assets from such a trust could be materially depleted during the lifetime of one or more beneficiaries. In such a case, the income each year would be reduced. Such risk must be explained carefully to potential donors and all possible steps should be taken to be certain that the risk is understood before such gifts are accepted. Once a gift is accepted, regular reporting to the donor as to the status of the assets in the trust is absolutely essential.

A Net Income Unitrust is essentially the same as the basic unitrust except that only earned income may be distributed to the donor. A fixed percentage must be stated in the trust agreement which, when multiplied by the value of the assets in the trust, revalued annually, determines the maximum payment to be made to the beneficiary. Any income received by the trust other than dividends or interest cannot be distributed but must be added to the principal of the trust. If the available income is not equal to the maximum payment allowable, the deficiency may be carried forward and made up in subsequent years when income is greater than the allowable payment. If there are no such deficiencies, excess income is added to the principal of the trust.

Gifts of real estate and tax-exempt bonds may be most efficiently handled under this form of gift.

The Annuity Trust offers the assurance of a fixed dollar income. It combines some of the features of both the gift annuity and the basic unitrust. The donor and the charity are free to agree upon the fixed amount to be paid when the agreement is prepared, but once set, it can never be changed. The amount must be at least 5 percent of the fair market value of the assets placed in the trust when it is created. No additional gifts may be made to the trust after its establishment.

The fixed annual payment for the life of the trust is distributed in the same manner as distribution from the basic unitrust -- i.e., under the "three-tier concept." In this case depletion of the trust prior to the death of the last beneficiary is a possibility, and donors should be clearly advised of the risk before this gift is consummated. At the same time, the possibility of increased value of assets under good management is very real so that the sum available to the charity may grow materially between the time of the gift and the maturity of the contract. (In order to qualify as a charitable trust, each annuity trust must pass the 5 percent probability test, as mandated by the Internal Revenue Service.

The Term Certain Annuity Trust provides for payments to the beneficiaries for a specified number of years (not more than 20) rather than for life. The principal advantage lies in allowing the donor to maximize income tax deductions immediately while providing income for a specified period of time. The plan is particularly advantageous for donors who wish to help young

people get started but do not want to provide income support for life. It can also be established to accumulate funds for a small child's college expenses in later years or to cushion the first years of his or her working career after college.

The Charitable Lead Trust is often referred to as the "mirror image" of charitable remainder trusts. The lead trust is a gift of an income interest for a period of time, with the principal passing to noncharitable beneficiaries or reverting to the donor. None of the basic characteristics of annuities, the pooled income fund, or the charitable remainder trust are present, except that certain tax benefits are available. Essentially the lead trust is a tax-efficient method for passing wealth from one person to others while making a charitable contribution. It is mentioned here only because it is currently receiving attention in development circles and is most often established and administered by the annuity and trust staff.

Note: The manner in which all charitable trusts are established or managed is dictated by federal and state codes. There is no margin for error; thus the importance of a staff person with knowledge of the appropriate laws and regulations, plus quick access to legal counsel, cannot be overemphasized.

## THE TAX ADVANTAGES

All annuity and life income plans offer both federal and state tax benefits.* National policy since the establishment of the federal income tax has encouraged private philanthropy by offering tax incentives. Too often today these are misconstrued as "loopholes," but they are not. "Loopholes" are oversights in the law that allow certain individuals unfair advantages. Tax incentives have been written into the law with deliberate intent by Congress and reaffirmed by every Congress as national policy.

There are those who would eliminate the possibility of individual choice in giving personal resources, who claim that annuity and life income plans enable donors to profit financially through these gifts. They are wrong. In every instance the donor must make an irrevocable gift and thus in every instance the donor has reduced his or her net worth. Even the philanthropist who gives away highly appreciated securities earning 2 percent, freeing himself or herself from payment of a capital gains tax and earning income at a rate much higher than 2 percent, has irrevocably given up control of the asset. Is the donor "better off"?

We have unwittingly allowed accepting the advantage of tax incentives to be equated with cheating and dishonesty. This is unfortunate. While it is true that donors may prefer to give some of their assets to their personally chosen philanthropy rather than to government, they cannot, through such gifts, avoid the payment of all taxes. Also, in order to receive their charitable deduction they must -- I repeat this for emphasis -- give away their assets irrevocably. To those who claim that there must be tangible evidence of charitable intent as the primary motivation for donations, the evidence of the gift itself should be sufficient answer. It is highly unlikely that anyone will make gifts to any institution that does not merit the donor's confidence -- especially assets so essential to the donor's welfare that the income must be retained. We know from experience that many donors are not certain about their underlying motivations, but the safeguards of charitable deduction limitations and the irrevocability of gifts seem to preclude "tax evasion" as a reason. "Tax avoidance" it may be. But it is, to this day at least, the right of every citizen to choose to avoid a portion of his or her taxes in order to benefit a charity in which he or she believes.

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*References to taxes in this publication apply only to federal regulations. The laws of individual states vary and should be carefully researched as they apply to each donor and to each gift.

The primary tax benefits are as follows:

The Charitable Deduction. The most efficient gift from the point of view of the deduction earned is the outright gift. This gift may be deducted dollar for dollar. However, when the donor cannot afford to give away assets without retention of income, the gift consists of two parts: (1) a value on the life estate retained by the donor and (2) a value on the remainder interest that will accrue to the charity. These values are determined by official tables authorized by the Internal Revenue Service. In general, the amount of the deduction depends upon the relative amount to be returned to the donor. The higher the rate of income, the lower the deduction; the longer the projected life span for the payment of benefits, the lower the deduction; and vice versa.

If gifts are in the form of appreciated property, the deduction that may be taken in a given year is limited to 30 percent of the adjusted gross income of the donor. If the gift is in the form of cash or unappreciated property, the charitable deduction is 50 percent of adjusted gross income in a given year. Should the charitable remainder representing the deduction earned by an individual gift exceed the maximum allowable deduction during the year of the gift for the individual donor, the excess may be carried forward and deducted in subsequent years to a maximum of five years.

The Capital Gains Tax. If a donor contributes appreciated assets in exchange for a pooled fund agreement or a charitable remainder trust, he or she is freed from payment of tax on the capital gains and the value of the gift is the full fair market value on the date of transfer. Quite naturally, this is a major incentive for giving by individuals who are "locked in" by virtue of holding assets over a long period of time during which the value has increased considerably.

A note of warning: If the trustee intends to sell the donated assets and purchase tax-free bonds, appreciated property should not be contributed because there exists the probability of the donor's being liable for a capital gains tax.* Nothing in the 1969 Tax Reform Act has any direct reference to such a ruling, and indeed, the three-tier concept of the charitable remainder trust provides for payment of this kind of income. However, the 1960 ruling has not been tested in the courts, and it is advisable to avoid such agreements.

*Revenue ruling 60-370 is still on the books. It holds that the donor shall be liable for tax on the capital gain if there is an express or implied obligation on the part of the trustee to sell the appreciated assets and buy tax-free bonds.

In the case of the gift annuity, a portion of the capital gain involved in such a transferred asset will be reportable for income tax purposes. However, the taxable gain is less than would be the case if the donor sold the assets. Under federal income tax law, the donor may choose to report the capital gains in equal yearly installments over his or her life expectancy. (Some states do not make such a provision, and this is a perfect illustration of the importance of researching state law for variation from the federal statutes.) Inasmuch as the words "capital gain" elicit such a negative response from so many people, it is important to be in a position to present to a prospect specific figures which illustrate the actual effect of a gift for his or her circumstances. The gift annuity is frequently the best plan, even with the payment of some tax on the capital gain, inasmuch as the deduction and the tax-free portion of the income often more than offset the gain reportable each year over the donor's life expectancy.

The Gift Tax Liability. A gift to a charitable organization does not subject the donor to payment of gift taxes. Such gifts are not reportable. Should the gift be in the form of an annuity or life income agreement, however, with someone other than the donor named as a beneficiary, the value of that individual's income interest is considered a gift from the donor, and that gift may be subject to the gift tax. If income is payable to the second party immediately, the gift is a present interest. If income is not payable to the second party until the death of the donor, then the gift is a future interest.

It is important to know just how the gift is classified in order to determine whether or not the annual exclusion may be applied.

Gift taxes may be deferred by use of a revocation clause in the trust agreement. Should such a clause be used, the donor reserves the right to revoke the interest of other beneficiaries. This revocation may take place only in the will of the donor. For this device to be effective, the donor must retain income for life. The determination of gift tax liability and the decision as to whether or not a revocation clause should be used are subjects for discussion with the donor and the donor's legal and financial advisors.

The Estate Tax. An annuity or life income gift, no matter which plan is used, is free of estate tax if the donor is the sole beneficiary or if the donor is the survivor in agreements with more than one beneficiary.

If there is a surviving beneficiary in the case of a two-life annuity, the value of the benefits received by the survivor over his or her remaining life expectancy will be included for tax purposes in the gross estate of the donor. In the case of

the pooled fund or charitable remainder trusts, only the value of the survivor's right to life payments will be listed in the estate of the donor if there are payment beneficiaries who survive. The value of the survivor's rights are computed at the time of the donor's death and therefore cannot be determined in advance.

In any case, the taxable portion of the donor's estate will be less than if the gift had not been made and the assets were included at full market value.

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## TYPES OF GIFTS

Just what may be accepted by an institution in exchange for a gift annuity or to fund a pooled fund or a charitable remainder trust is partly determined by law, partly by regulations, and principally by the policies established when the program is started. Once again, the importance of these written policies cannot be overstated. The following guidelines must be considered:

Cash. Cash can be accepted to fund any plan. It represents the simplest form of gift to receive. A check is its own receipt in case the standard acknowledgment procedures go awry.

The date of the gift is the date the cash or check is handed to a representative of your institution or the postmark on the envelope if the gift is mailed.

The value of the gift cannot be questioned either by the IRS or your board of trustees.

Stocks or Bonds (except tax-exempt bonds). Stocks or bonds may fund any plan with the exception of a net-income unitrust set up to pass tax-free income to the donor. (See note of warning on page 12).

The date of the gift is:

1. the date the certificates are hand-delivered or mailed to a representative of the institution; or
2. the date delivered to a broker for the institution's account; or
3. the date recorded on new certificates if old ones are sent to a transfer agency by the donor or the broker.

Valuation is the mean between the high and the low on listed stocks, the mean between the bid and asked price for over-the-counter stocks. For unlisted, close-held stocks, the value is the price of the last sale of the stock or a price attested to by an acceptable authority.

Special classes of stock, such as Rule 144 securities, may be subject to special limitations on re-sale that should be investigated with the donor before acceptance.

Tax-exempt Bonds. These bonds are best used to fund a net-income unitrust. All income, but only the income, passes tax-free to the donor within the limitations stated in the trust.

The date of the gift is the date on which the bonds are delivered to a representative of the institution or to a broker for the institution's account.

Valuation is the price quoted by acceptable authorities on the date of the gift.

Tangible Personal Property. Although there is no specific prohibition against funding a charitable remainder trust at least partially with tangible personal property, serious questions have been raised that suggest exercising extreme caution. Certainly the donor should be advised of your concern and requested to seek the approval of his or her own attorney. In fact, a ruling from the IRS might well be sought before the gift is made. It is far simpler for tangible personal property to be contributed outright.

Real Estate. The most practical plans for accepting gifts of real estate are the gift annuity and the net-income unitrust. When an annuity contract is used, the management and disposition of the gift are completely divorced from the obligation of the charity to make payment to the donor.

When a net-income unitrust is created, only the net income passes if income-producing property is contributed. Should the gift be in the form of non-productive land, there will not be any income until the land is sold. Arrangements for payment of taxes or maintenance costs until the sale is made must be provided for before the gift is made.

Even though the real estate may produce income, there is risk in accepting such property into the pooled fund or into a unitrust or an annuity trust. Structures can be damaged or completely destroyed, eliminating the income for a period of time. Crops can be destroyed, and land even made unfit for future crop production. When this happens after the gift has been made, the trustees find themselves in the unhappy position of having to make payment to the donors in the form of an undivided interest in the same real estate they donated to the institution. Even though there is no income available, the requirement for payment will continue.

Your institution should make a major policy decision early as to your plans regarding sale or retention of gifts of real estate. One option is to sell all such gifts as quickly as possible after the gift is received. Pre-gift research will demonstrate a probable sales price. If that price is not close to the value the donor wishes to claim as a basis for a charitable deduction, the decision may be simply to forego acceptance of the gift. Whether or not the investment committee is willing to consider gifts of real estate which will have their greatest value if retained for a period of time is something the staff must know when discussing such gifts with potential donors.

The date of the gift is the date the deed in favor of the receiving institution is delivered to that institution.

The best evidence of value is the price obtained as the result of a sale shortly after the gift is made. If the property is not sold, the donor should provide at least one, if not two, MAI appraisals. The cost of these appraisals is deductible. Some institutions follow a policy whereby the donor pays for the appraisal if the gift is not made, while the institution underwrites the cost if the gift is made.

Your institution should have access to experts in the field so that you can make your own judgments as to value, probability of sale, and special problems inherent in managing the property under consideration.

Property encumbered by mortgages, trust deeds, or delinquent tax liens can present serious and very complicated problems. You must discuss fully and carefully these complex transactions with the donors and their tax advisors before proceeding. The acceptance of real property, if the property is subject to a mortgage or deed of trust placed on the property less than 10 years before the gift, is deemed to be a self-dealing transaction under the Revenue Code. Furthermore, a penalty tax will be assessed on both the donor and the trustee for having entered into the transaction.

## STARTING A PROGRAM

A program offering annuities and charitable trusts has only a very small probability of success without the full commitment of an institution's president and members of the governing board. They must want this program, not fear it. They must understand that in time it will produce assets that will enable them to plan for the future with confidence. They must not be afraid that it will rob current funds. They must show the determination to make an investment in the future now. They must be totally supportive.

The preface to a policy statement of one institution that is a leader in annuity and charitable trust solicitation contains the following:

> It is the policy of the Board of Trustees to offer through the estate planning program an opportunity for donors to make gifts, reserving income for life to themselves and other beneficiaries, to make such gifts by will and make outright gifts by bequest; to aggressively seek out such gifts; and to provide adequate staff and resources for a full and effective program.

This is not lip service. It is a written statement officially adopted and effectively implemented by the trustees. Without such a commitment, relatively little can be expected from an annuity and charitable trust program.

As in other segments of a development program, the solicitation of annuities and charitable trusts will be most effective when carried out according to policies and guidelines adopted by the governing board and the president, and with adequate staff and budget. It takes time and attention to develop an understanding of the various plans, the obligations, and responsibilities incurred by the institution, and to make decisions to ensure proper donor relations, investment management, and accounting processes. Therefore, once an institution decides to include an annuity and charitable trust capability in the development program, a standing or special committee of the governing board should have the responsibility for recommending the scope of the program and appropriate policies and guidelines.

In most cases such a committee will not have members with the technical knowledge necessary to explain the plans and to determine what decisions must be made. Unless there is a staff person with this kind of knowledge, or unless counsel can provide the service, it may be necessary to retain a professional consultant to guide the committee at this stage.

At the earliest possible time, the institution should designate a staff person to administer the annuity and charitable trust program, or hire an additional person. Having that person participate in the work of the committee will save time and prevent misunderstandings. The chief financial officer, institutional legal counsel, and the chief development officer should also sit with the committee.

At the first meeting the committee should consider the reasons for adding annuities and charitable trusts to the development program. The committee should outline the general characteristics of these gifts and a detailed description of each plan. It must identify decisions for which the governing board is responsible. Some of the major questions to be answered are:

Gift Annuity. Is it necessary for your institution to qualify with a state regulatory body in order to write gift annuities? If so, has your institution qualified? If not, who will determine what has to be done and be responsible for preparing the reports? Is the board willing to pledge all of the assets of the institution against the payment of a gift annuity? What schedule of rates will be offered? Is there a minimum amount that will be accepted for this form of transaction? Will your institution provide the investment knowledge and the accounting necessary, or will you institute a policy of reinsuring each gift with a commercial company? Will you accept real estate as the basis for a gift annuity? Will you offer the deferred gift annuity?

Pooled Fund. What will be the investment objective of your pool -- high yield, growth, or a balanced fund? Which legal counsel will be used to draft the trust documents and who will submit them to the IRS for approval? Who will prepare the "full and fair disclosure statement"? Will your institution's investment counsel and accounting office handle these responsibilities? Will you retain the services of a bank or another outside agency to do the investing and the accounting? Will you have minimum ages for donors and beneficiaries? Will you have a minimum sum you will take into your pooled fund? Are you willing to commit some of the institution's funds to "seed" the pool?

Charitable Remainder Trust. Will you offer the unitrust, the net income unitrust, the annuity trust, and the term certain trust? Will the trustees establish a maximum rate of return that the staff individual may use as a guideline in accepting gifts, or must there be a clearance with the appropriate board representative for every gift offered? Will there be minimum ages for beneficiaries? Will there be minimum amounts for each form of trust? Who will set investment policy? Who will provide the accounting service? Will real estate be accepted? How will tax-free bonds be handled?

With the input from the committee described above, a set of policies and guidelines for the program can be drafted. In addition to providing specific answers to the questions enumerated for each plan, the document should include some general policy statements, such as (1) an enabling statement by the governing board; (2) authority for the staff to solicit within the parameters outlined for each plan; (3) avoidance of the solicitation of a gift for the benefit of the institution at the expense of the donor (conflict of interest); (4) a pledge of confidentiality for all information collected about donors; (5) the expressed intention to urge each donor to consult his or her own financial advisors and legal counsel; (6) the authority and responsibility assigned to the departments involved; (7) assignment of responsibility for expressions of acknowledgment and appreciation; (8) provision for ratification of each gift by the governing board; (9) provision for making exceptions to these guidelines when justified; (10) provision for regular review of the total program as well as each annuity and trust under management.

Once this document has been drafted, it should be sent to each committee member. Subsequent committee meetings should be held until a final draft has been prepared. There may be several drafts, but time spent now will save much time later. Ultimately a set of specific policies and guidelines should be recommended to the governing board for approval.

It may be appropriate for this committee to recommend a tentative budget, even though a marketing plan has not as yet been prepared. Compensation for a staff person and secretarial service will be the major item. If someone on the current staff is assigned to the task, additional funds will not be necessary. However, unless a fully qualified person is employed, funds will have to be made available for training the staff person by a professional firm or a private consultant.

Estimated costs should include at least one basic brochure, a quarterly newsletter, travel and expenses, postage, attendance at conferences and/or seminars, and purchase of the necessary Treasury, IRS, and professional publications. Expenses for legal costs will depend on your relationship with counsel for your college or university.

The committee should recommend that the commitment and funding of the program be for three years. There are two reasons for this. First, it will take time to organize the program, train the staff, prepare and implement a marketing program, identify prospects, and begin cultivating them. Second, according to a recent study at Pomona College, the average time between first inquiry and first gift is slightly over two years. Donors do not make gifts of any significance precipitously. When the asset is one that donors can give only if the income can be retained, it is essential that the donor

decide only after carefully evaluating the circumstances. It is also important that the donor select the right plan. Because such a gift is irrevocable, donors should be absolutely certain that it will not jeopardize their future well-being. Furthermore, the subject is complex, and complete understanding requires considerable study.

Obviously, it wouldn't be fair to judge the success of a new program in less than three years.

The importance of staff. Competent staff is essential. It is common practice for colleges and universities to spend money and time training expert manpower for special gift responsibilities, for foundation solicitation, for corporate relations, and for alumni giving. These institutions send personnel to conferences; hire professional counsel; and spend considerable amounts on brochures, mailings, luncheons, banquets, cocktail parties, and meetings to plan and carry out a good fund-raising program. Then in too many cases and almost as an afterthought, the institution assigns responsibility for annuity and life income gifts on a part-time basis to an already over-burdened staff member, the newest staff member, a retired trust officer, an inexperienced but "promising" alumnus, or another bright young "comer." This approach could conceivably result in a bonanza. But it is more likely to produce a bust and, in so doing, doom a program of tremendous potential to dismal failure.

The responsible staff member must have a detailed technical understanding of what each plan in an annuity and life income program can -- and cannot -- accomplish for a donor; must be able to do the most rudimentary of calculations; and must understand the basic rules as prescribed by law and by IRS rulings. That kind of knowledge is just as essential in annuity and life income programs as in other fund-raising efforts. It is almost impossible for someone who does this occasionally to be knowledgeable enough to staff this demanding segment of the total fund-raising program.

Fitting the plan to the donor takes expertise and time. An unskilled person cannot do it. It also requires someone who will be available at the right time. A part-time staff member is too often not available when donors are ready to discuss their circumstances and objectives and is often not ready to make a presentation when donors are ready to listen. It is difficult enough for a skilled professional with a number of prospects to remember each one's individual problems and to be on hand at the critical moment. It is virtually impossible for a part-time or unskilled person.

Finally, the responsible staff member must be able to inform other members of the development staff as to the scope, nature, and advantages for donors of the annuity and trust program. This is not to say that members of the development staff concentrating on other aspects of fund raising need to be professionals in the annuity and life income field also. They need only to know that there is such a program and to have a general understanding of what it can accomplish. They need to know that annuity and life income gifts fit into the list of priorities described earlier. But in the final analysis, when a donor seems to be best served by an annuity or life income gift, a competent professional staff person is needed to assure that the proper agreement is prepared, that computations are accurate, that the transfer and receipt of the gift are completed in a professional manner, and that follow-up reports and acknowledgments are issued on time.

In the November 1979 issue of CASE CURRENTS, Harvey Devries and Karen Grabow listed the major responsibilities of the successful annuity and trust officer as follows:

1. keeps up-to-date on legal and technical developments;
2. initiates communication to keep donors and prospects informed about estate planning;
3. identifies prospective donors;
4. patiently but persistently cultivates the prospect;
5. recommends the gift plan most suitable for the donor's circumstances;
6. presents the recommendations in writing;
7. seeks a decision;
8. ensures that arrangements are properly executed;
9. continues to express appreciation and provide service to the donor after the gift is received.

In the same article, Devries and Grabow list the major characteristics of the successful annuity and trust officer:

1. mental ability
2. judgment in decision making
3. planning and organizing skill
4. the ability to speak clearly and effectively
5. written communications skill
6. human relations understanding
7. salesmanship
8. motivation, initiative, and discipline
9. persistence

10. self-assurance
11. flexibility
12. maturity
13. commitment
14. follow-through.

When the staff responsibility has been assigned, a set of policies and guidelines has been approved by the governing board and the administration, and a basic budget has been adopted, you are ready to begin your annuity and charitable trust program.

## MARKETING THE ANNUITY AND LIFE INCOME PROGRAM

Many years ago, Paul Davis, a pioneer in the area of formalized fund-raising programs for colleges and universities, stated that raising funds for charitable organizations was a simple process (he quickly pointed out that "simple" and "easy" were not synonymous). To be successful, it was necessary for institutions to answer three questions: (1) for what purposes are we soliciting the funds? (2) who will give? and (3) who is going to ask for gifts? A marketing plan for annuities and charitable trusts, as for all other parts of a development program, should address itself to those three questions.

1. The answers to the first question -- for what purposes do we seek funds that will not be available for use by our institution until an uncertain date in the future? -- should come from the portion of your case statement that describes the vision of the future you hold for your institution. You should also explain how funds becoming available to you at a future date will help make that vision a reality. People give to the future, not to the past. The annuity and the charitable remainder trust provide assured funds for future use; thus the case statement must persuade donors of the importance of their gifts in making a vision of the future a reality.

Experience has indicated that donors understand the necessity of expressing an institution's future needs in general terms. By their gifts, they are expressing their faith that in the future the governing board will use their money wisely and in line with the case which has been presented to them.

Therefore, the first step in developing a marketing plan is a case statement that deals concisely and clearly with that vision of the future. If you have one, fine. If not, your task is to urge your institution to prepare one.

2. Your second task is to identify those who might become contributors through use of the gift annuity, the pooled fund, or the charitable remainder trust. There are certain general characteristics identifying donors for whom these forms of gifts are best suited: (a) Typical donors are not likely to be of tremendous wealth; more likely, they are people to whom income from assets is essential for their lifetimes and probably for that of others. (b) They are generally of middle age or older. The relatively low income tax deduction available to younger people discourages use of these plans before middle age. In addition, the irrevocable distribution of assets from which income is needed for life is the beginning of estate planning, which is more likely to occur when retirement becomes an event in the foreseeable, rather than the distant, future. (c) The donors do not believe that all assets must be retained under their management for life. (d) They will devote considerable time to weighing the advantages and disadvantages of such a gift. (e) They will find satisfaction in supporting the institution.

The objective, then, is to identify all those who might use the annuity, pooled fund, or charitable remainder trust to achieve one or more of the benefits and objectives of donors. Use all available means to identify prospects, from soliciting names from trustees to appealing to a certain public. Which devices you use will depend on resources available and an assignment of priority according to probable efficiency -- i.e., people suggested by trustees are likely to produce more gift dollars per visit and hours spent than those reached through mailings to a large group. Therefore, a visit to each member of the governing board to request five names of individuals who might be interested in learning about the annuity and life income program should be an early step in the marketing plan. If the trustees have not been involved to any great extent in the establishment of the program, the personal visit provides an excellent opportunity to develop their understanding of how it fits into the total development effort. If they can help in broaching the subject to a prospect, so much the better. Even if they have not been involved in establishing the program, they should help in prospect identification.

A screening of alumni, parents, past donors, and friends to identify those above a certain age will produce names of potential prospects.

Public advertising will yield additional names. But if you have enough names at the outset, you may want to defer that expense for a while. If you lack the staff to serve the additional prospects, they won't be worth the cost.

If certain professionals -- lawyers, accountants, stock and real estate brokers, money managers, insurance personnel -- are knowledgeable about your institution's plans, they may have occasion to recommend gifts to their clientele. Although there is a tendency to expect too much from these sources and to invest more time and effort in their cultivation than is efficient, they certainly should not be overlooked.

Finally, you must inform or remind other members of the development staff that annuities, pooled fund gifts, and the establishment of charitable trusts may be the proper methods to increase the support of those making contributions in outright fashion.

3. Having identified a list of those who might give, you should proceed to answer the third question, "Who will ask for the gift?" This question encompasses the entire procedure for acquiring adequate information about a donor's circumstances and objectives, presenting a plan for his or her consideration, and cultivating the prospect in a manner designed to bring him or her to a point of decision. Your marketing plan should use as many means as practical to inform your prospects of the program and to help those who express an interest to select the best plan for their circumstances.

Soliciting the expression of interest. One way to reach a large number of potential donors is by letter, perhaps with a brochure that identifies the various benefits to donors. You should include a return card which the prospect can use to request additional information.

The return card enclosed with the annual bequest mailing can provide space for an expression of interest and a request for more information about the annuity and life income program.

Stories about annuity, pooled fund, or charitable trust giving opportunities, or specific advertisements, can be placed in alumni as well as general college or university publications.

Advertising in public media should be considered if the above methods do not provide enough prospects to make the program profitable. The Pomona Plan has produced more than $50 million in annuities and trusts, with well over 80 percent of the dollars coming from donors who had not had direct connections with the college. This program proved that there are many people who want to make significant gifts during their lifetime, cannot afford such gifts outright, and are very receptive to the institution that offers both the prestige of association with a worthwhile cause and a method of giving tailored to their circumstances and objectives. The frequency, content, and placement of the advertisements must be considered carefully, and consultation with experienced public relations counsel is advisable.

Estate planning seminars for constituents of the institution and "strangers" can produce new prospects. Don't overlook holding one on campus so that faculty and staff can attend. A well-prepared seminar, aimed at the broad concept of estate planning but containing explanations of how charitable gifts fit into a good estate plan, will produce new prospects and incidentally, prod some other prospects to action.

Responding to the expression of interest. A brochure listing the basic characteristics of the program, outlining the benefits to donors, and briefly describing each plan is a necessity. Examples of how each plan works may help the reader understand this complicated subject. A simple table that compares the plans and presents pertinent information about each is very helpful. You may also want to include information about the types of assets that may be contributed, valuation of assets, methods of transmittal, where investment responsibilities lie, and even the tax benefits of outright gifts. However, those latter subjects should not detract from basic information about the program and the individual plans. Don't over-explain; don't frighten the prospect with complexities.

What about a separate brochure for each plan? If you don't know which plan will best serve your prospects (and at this early stage of cultivation it is doubtful if even the donor knows), you would need multiple brochures, one for each plan. But the probability that the prospect would read this greater bulk of material is questionable.

With the brochure should go a form that prospects can use to send pertinent information such as birth date, amount and nature of proposed gift, desire for fixed or variable income, and other facts which will help you select the plan to recommend and prepare a presentation concerning the charitable deduction for their consideration. Always include a return envelope.

One or two follow-up letters, spaced two to three weeks apart, have proved to be productive. Possible content includes additional information about the institution's financial stability, more detailed examples of the tax benefits, or illustrations of how provisions of income can be made for others.

Luncheons for small groups including trustees, donors, prospects, staff, and professionals can be held to outline the program, keep it in front of those who are considering a gift, and call it to the attention of others.

Brief reports at meetings of the governing board and its appropriate committees, to the directors of volunteer groups, or to the leaders of donor groups can reach many people.

The number of publications and meetings with professionals -- lawyers, accountants, and so forth -- will depend on the availability of time and resources. Personal calls on these professionals when routine visits with important prospects take us to a given area can, in the long run, be more productive than luncheons and group meetings.

Cultivation of the Prospect. The first lesson we must learn in cultivating annuity and life income gifts is the importance of patience. It takes time. People don't give away large sums in a hurry, no matter how friendly and interested in helping they may be. This is particularly true for individuals who need to retain the income. The irrevocable nature of the gift means donors must be absolutely certain that the action will not jeopardize their future well-being. Furthermore, the subject is complex. It may take a long time to assess the various plans and to rate them as to which will most successfully achieve the donor's objectives.

As prospects are identified, each should become the personal responsibility of a specific staff member, if the staff includes more than one person concerned with annuity and trust gifts. Unless such an assignment is made, a prospect may be forgotten. Once a donor is assigned to a staff member, that staff person should put the cultivation system in motion.

It is here that personal attention as a selling tool enters the picture and greatly increases the probability of a gift. Best results are achieved by personal visits with prospective donors. In this way, you get to know them as people and they get to know you. (Let's face it -- many gifts are made on the basis of who is representing the institution.) Through personal visits you have the opportunity to help prospective donors become more familiar with your school, college, or university. You can answer their questions about education, students, and faculty, and you can talk with them about the financial stability of the institution to which they are considering entrusting their assets. You can learn their objectives. Too often they are not clear about what they want to do, and they are hazy about what your institution's program can do for them. In these discussions, you help them work out their plans and clarify their objectives. The first meeting provides a good opportunity to get as much information as possible about prospects' circumstances and objectives.

At some stage of the cultivation process you should prepare a written presentation for your prospect and his or her advisors to consider. This letter will personalize all the generalities used in explaining what the program has to offer and will state the tax benefits available for the specific gift under consideration. A good letter will:

1. State the facts (or assumptions if some must be made) on which the presentation is based -- donor's birth date, amount of gift, nature of asset to be contributed, rate of return.

2. Review briefly how each plan presented might fit the prospect's circumstances and objectives; summarize the advantages and disadvantages of each plan so that the donor can make a comparison.

3. State the charitable deduction, the amount of income (actual or estimated), and the capital gain treatment. Be certain that all computations are accurate.

4. Cite IRS code and regulations as authorities.

5. Include reference to institutional goals that a gift can help to achieve, as well as memorial possibilities.

6. Make the letter personal; don't let it look like a machine-produced communication.

Always send two copies of the letter. It is helpful if you enclose a sample of the annuity contract or the trust agreement for the pool, unitrust, and annuity trust. In the case of the pooled income fund, you should include a copy of your full and fair disclosure statement.

Urge your prospect to have an attorney and/or financial advisors review the letter and sample forms.

Follow up with a personal visit after the letter has been mailed. Allow some time for the prospect and his or her advisors to study it. The letter will enable you to focus the conversation on specific plans and benefits. It will help your prospect understand the decisions to be made. Now your cultivation process becomes one of further visits, phone calls, or letters as your knowledge and experience dictate.

Good "call reports" -- complete written descriptions of everything discussed during a visit -- are mandatory. They should be prepared immediately after a visit (a portable dictating device is very handy). They should contain facts, impressions, and personal information that will be helpful in future correspondence or visits.

You must never push prospects too hard or too fast. They must have time to think and to talk to others -- a spouse, children, other relatives, and especially a professional financial advisor.

(A particularly interesting finding of the Pomona study is that first-time donors made gifts after a cultivation period of either 12 months or less or three years or more. Included in the first group (12 months) were both donors who had a previous affiliation with the college and "strangers," those with no such previous record. Almost all of those who took three years to make a decision were strangers. The lack of gifts from new donors in the one-to-three-year cultivation period needs further analysis to establish cause.)

Regular mailings, each addressing one form of giving and the benefits to the donor, will keep your program and your institution in the minds of your prospects while they are considering the advisability of a gift. You can prepare these mailings yourself or purchase prepared material from professional firms.

Other standard cultivation methods should be used as appropriate -- inviting the prospect to visit the campus, attend special events, meet with the president, and so forth.

Accepting the Gift -- Closing. When you accept a gift, you have one last opportunity to review the basic considerations of the selected plan and to be certain that the donor understands both the advantages and the possible problems. A formal application should be available for completion. If possible, annuity contracts or trust agreements should be prepared ahead of time, signed by the representatives of the institution, and available to hand to the donor for final review and signature. The donor should receive a formal receipt. If the gift is stock, you should have stock powers

available for signing. If you are handed both stock certificates and stock powers, you should have with you envelopes to mail either the stock or the powers to your office so that you do not carry both of them on your person unless the distance to be traveled is very short. Together, of course, they are negotiable.

If you are not able to accept a gift in person and if the gift is in the form of stock, you should discuss with the donor the method of transfer. You must be knowledgeable about the rules on valuing of gifts of stock. Beware of those occasions when stock is held by a trustee bank in "street name." When the stock is forwarded by the trustee to the transfer agent for reassignment to the institution, the assignment can take place as much as two to three months later. The effective date of the gift can be quite different from that assumed by the donor and the value can change considerably. Know the rules of valuation and know how you can help the donor avoid potential transfer problems.

## ROLE OF THE BUSINESS OFFICE

A business office that runs smoothly and efficiently is crucial in any successful annuity and life income program. Marketing and administering our plans begin in the development office, but we immediately become involved with the operation of the campus business office. Our policy and guidelines statement must clearly define the role and responsibilities of that office in trust management, investment decisions, and the accounting process. Such seemingly routine matters as preparing federal and state tax reports and appropriate trust reports to donors, and writing and mailing checks on time with easy identification so that the donor knows which gift prompted the payment are obligations of the business office that affect the attitude of donors and, to a great degree, the possibility of additional gifts. Every transaction involving that office must reflect the greatest accuracy, promptness, and courtesy. It's no small job, and it's critical to the future of our endeavors.

The critical element here, as in all development work, is attitude. If the members of the business office staff see themselves as representatives of the institution in dealing with the donors, if they understand that many of those "silly" questions are not silly to the donor, and if they believe that doing everything possible to satisfy the sometimes whimsical requests for information is an important aspect of their function, then they can be of tremendous help in the acquisition of gifts.

You can encourage a positive attitude through effective internal communication between the development staff and the business office. It is the responsibility of the development staff to take the initiative in getting to know the people in the business office, in informing them of the role of the development office, in explaining carefully their importance to the future of the institution, and finally in achieving their full cooperation. As C. David Cornell, president of Westminster College in Utah, has pointed out, "We in the business area are conservative, reflective, and the antithesis of the entire development operation. Many of us feel that the world would really be a better place if somehow God would provide, and we could do away with the fund raisers."

The development and the business office must understand each other. They must appreciate their respective roles. Business office personnel must appreciate the need for patience with development professionals and with donors and see the program as a long-term investment. They must be made members of the team. They will have to understand that relationships with the donor are the primary responsibility of the development staff, but that the business office plays an exceedingly important part in the relationship. They must learn to accept -- even if they never believe -- that donors do not relish an excuse to call and complain about late check arrivals or incomplete information.

Development staff, at the same time, must appreciate the role and the problems of the business office. The policy statement should clearly spell out the function of the business office and set responsibilities for both the staff of the business office and the staff of the development office. We must, however, acknowledge that all too often there is a wide gap between the written word and comprehension. Again, development staff must take the initiative in closing that gap, in creating the kind of relationships among personnel so necessary to the success of an annuity and life income program.

Much of the management and accounting work can be performed by outside agencies. Gift annuities can be reinsured with a commercial insurance company. Pooled funds and separate trusts can be managed by a bank or other professionals. The responsibility still rests with your institution, however, if the gift is made to your institution and you employ such agencies. You must be certain that the agency you choose knows the law and the regulations, will manage and invest in accord with the contract or the trust agreement, and performs accurately and on time. You will want to have the same working relationship with the agency you would have with your own business operation.

Use of such outside agencies can be advantageous when you are starting an annuity and charitable gift program. Individual functions can be brought back into your own business office at appropriate times in the future.

## BEQUESTS

How does a bequest fit into a donor's financial planning? It is the last gift a person can make. It is effective only at the death of the donor. It does not remove assets from the control of the donor during his or her lifetime. A bequest can be a logical extension of, or conclusion to, a plan of giving that began during the donor's lifetime.

The preparation of a will to disburse assets in an orderly fashion, including the last charitable gifts, may yet be the first step in estate planning. Providing for distribution of one's assets at death is often put off when the idea of death seems far in the future. But too many people die without a will, leaving the state to dictate how assets will be distributed, often in a manner very differenct from what a decedent would have wanted.

Encouraging the drafting and/or review of wills is a proper function of a development program. Many of our friends are grateful for the encouragement. In addition, many are unaware that direct distribution to one or more persons need not be the limit of their planning. Trusts can be established. Charitable remainder gifts can provide for income to others. Any of the annuity or charitable trust plans can be implemented by bequest. Finally, a bequest can be an addition to some existing charitable remainder trusts.

A formally organized program to encourage alumni and friends to prepare or review their wills, and to ask them to consider some form of a gift to your institution will be productive in the long run. A common procedure is to enlist a member of the class that has just celebrated the 25th anniversary of its graduation to write a letter to his or her classmates, asking them to consider including your institution as a beneficiary in their wills. The letter should be personal -- one classmate writing to another. It should contain a reminder to draft or review a will. It should forthrightly ask that recipients consider including their alma mater in their wills.

A card or brochure explaining the reasons for having a will, special tax problems that can arise, or unusual state laws, can be enclosed with the letter. This material makes it easier for non-lawyers to write the letter because they won't have to offer technical reasons or advice. Their task is just that of encouraging others to benefit themselves and their institution at the same time.

Each letter should urge the recipient to "see your lawyer." There should not be any references to the amount of a gift. A return card should be enclosed so that the individual can check a box to indicate that he or she has included your

institution in the will. There should not be any place on the card to write an amount. There should be a place to indicate a desire for information about gifts of annuities or charitable trusts.

If you are just beginning such a program, try to find letter writers for as many of the classes that have passed the 25th anniversary as you can. Don't worry if you don't get all of them the first year. Keep at it and you soon will.

A bequest committee provides a great opportunity for volunteer participation. One or more attorneys should be members because their advice about technical material to be covered in letters or brochures will be necessary. But non-lawyers should be in the majority because the principal thrust of the program is charitable and personal, not legal.

The committee can judge the merits of the possible subjects for the card or brochure to be enclosed. Committee members can review the wording to be certain that it's in layman's language, nontechnical, and easily understood. Their assistance in recruiting the class correspondents will be particularly helpful if you are just starting your program.

The bequest committee can also be responsible for sponsoring estate planning seminars. A good seminar will:

1. Emphasize total estate planning and include a presentation on the role of charitable gifts at an appropriate time and place on the agenda.

2. Enlist professionals who are good speakers. Nothing spoils a program faster than a knowledgeable professional who can't communicate effectively in an oral presentation ( a corollary problem is avoiding the speaker who tries to sell his or her own product or service.)

3. Offer a setting conducive to questions and participation. Limit attendance to 40 people. Use a room of the right size and a table arrangement that places people close to the speakers.

4. Pay attention to the comfort of the attendees -- provide table space for writing; comfortable chairs with adequate room; good lighting; an amplifying system that works; water, paper, and pencils on the table; and refreshments before and during the seminar.

5. Schedule a luncheon or other break periods.

6. Charge what it costs you.

Professional development staff must be available. The work of volunteers is productive in direct ratio to the service they are provided. Someone on the development staff, preferably in the annuity and charitable trust program, should be assigned responsibility for the bequest program. Cooperation with alumni office personnel is mandatory. The bequest committee may well be an official part of the alumni organization.

## PROGRAM EVALUATION

Just what is a program offering annuities and charitable trusts worth to an institution? How can we tell whether it is worth the cost? There are no specific criteria that can be applied to all institutions.

The most extensive search for a method to determine the relationship of cost to benefit for such agreements was recently undertaken. A study of the "Pomona Plan" financed by the Lilly Endowment took over two years to complete and acknowledged: "The questions to which (the) study is directed are simple; the answers are not."

You should take the following into account when you are deciding whether to aggressively seek gifts of annuities and charitable trusts or when you are reviewing an existing program:

1. Each institution will decide for itself which plans will be offered and the criteria for minimum ages and amounts. Where these differ, the results are not comparable. Each institution, therefore, sets its own level of benefit to be achieved. No one level is correct for all.

2. The longer an agreement is managed and the higher the payout, the lower the ultimate benefit to the institution.

3. Costs of solicitation and acquisition appear to be comparable to such costs for other forms of giving.

4. Investment management and accounting costs for the duration of the agreement are the most significant factors in ascertaining the actual benefit of such gifts to an institution.

5. A marketing program emphasizing personal cultivation and follow-up will be more costly than a mail program -- but it will probably produce more dollars.

6. A well-conducted program that is integrated into the total development effort will produce additional dollars -- not replace outright gifts.

7. The gifts received are "in-hand" -- not "probable."

8. The Pomona experience demonstrated the availability of gifts from donors (strangers) who would not otherwise be known to the college.

9. A carefully structured marketing program, along with constant attention to the maintenance of existing agreements, and operated by a knowledgeable staff director, will produce the most cost-effective program.

10. If bequests are included on the benefit side, as has been traditionally true in development reports, the cost effectiveness of the program is dramatically improved.

Annuity, charitable trust, and bequest programs should exist only if they produce positive benefits for the institution. They should be subject to careful scrutiny and regular review as to costs as well as benefits. Each institution will have to set its own criteria, monitor its program, and make the decisions necessary in its best interests. These programs are but offerings of additional methods from which donors may choose those best suited to their circumstances and objectives.

Development, in all its aspects, remains more art than science.